



AZ POST

INTEGRITY BULLETIN

Volume No. 38



The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **June and July 2008**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have.

June and July 2008

CASE NO. 1

NONFEASANCE AND MALFEASANCE

Officer A is an experienced officer and a trained phlebotomist. During her shift a fellow officer advised dispatch that he had an aggravated DUI with four small children in the vehicle. Officer A understood that her services would likely be requested to draw blood at the arrest scene. Nonetheless, she drove away in the opposite direction and checked herself out as being busy on a traffic stop. When contacted for her assistance, she falsely said she was busy and suggested he check with surrounding agencies for assistance. The Department sustained findings of inexcusable neglect of duty and inefficiency and terminated her employment. An appeal reduced the penalty to a 143 day suspension. The Board adopted a consent agreement for a suspension to run concurrently with her department suspension.

CASE NO. 2

PORNOGRAPY ON DUTY

Officer B was a probationary employee of his department, assigned to the Duty Office. On several occasions while at work, he turned his computer screen so that no one who might enter the office could see what was on his screen – he was viewing pornography. Forensic investigation revealed that Officer B had viewed 62 pornographic images on one computer and another 28 on a second computer. He had also viewed five movie clips on department computers. He was truthful during the internal investigation and admitted his misdeeds. He was separated from his wife and did not have access to a computer where he was living at the time. He stumbled upon the sites by visiting dating service websites and clicking on a link that took him to pornography. The Board adopted a consent agreement calling for a one year suspension of peace officer certification for malfeasance in office and conduct that tends to diminish, disrupt, or otherwise jeopardize public trust in the law enforcement profession.

CASE NO. 3

DISHONESTY AND ASSAULT

Officer C was involved in a road rage incident that led to his conviction of assault for throwing a rock at someone's car. He steadfastly denied throwing a rock or making certain statements to the occupants of the other car. The department conducted an investigation and found he had committed "conduct adverse to the

department.” The only punishment imposed by the department was to deduct eight hours of vacation time from his leave balance. The department submitted the matter to POST for review. The POST investigation discovered evidence that the department had overlooked suggesting that Officer C was dishonest in his criminal trial and to the department internal affairs investigator. He was found at an OAH hearing to have been dishonest about certain statements and actions, however, the Administrative Law Judge stated in her Conclusions of Law that the evidence was close. The Board suspended his certification for 30 days prospectively which will prohibit him from exercising the authority or performing the duties of a peace officer during that time.

CASE NO. 4

SEX ON DUTY AND DISHONESTY

Deputy D went to the home of a female acquaintance and engaged in sexual conduct, including some that left DNA from his saliva on her breasts. When he left, she called 911 and reported that she had been sexually assaulted. When this call was dispatched, he heard it and called a supervisor. Deputy D falsely denied having any contact with the woman that day and denied having been at her residence. No criminal charges were filed. Deputy D initially gave dishonest answers during the internal investigation. The Board revoked his certification for malfeasance in office and conduct that tends to disrupt, diminish, or otherwise jeopardize public trust in the law enforcement profession.

The Board adopted consent agreements calling for a voluntary relinquishment in the following fact situations. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- A Chief of Police caused the dismissals or non-prosecution of three misdemeanor cases as favors.
- An officer assaulted his wife.
- An officer stole collectable coins from his grandfather.
- A deputy made herself a \$1,000 loan from other people’s money in her custody.
- A deputy was accused of multiple incidents of procedural violations and unethical behavior.

The Board entered mandatory revocations for the conviction of the following felonies:

- Sexual Abuse (5 counts), class 5 felonies.
- Aggravated assault of a Minor, age 15 or younger, a class 6 felony.
- Theft, a class 6 felony.

On June 18, 2008, and July 16, 2008, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the matter to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- A recruit was untruthful about the degree of charge on her phone battery to avoid showing the nude photos she had texted to fellow recruits.
- An officer made statements on his applications at two different departments that his employer considered to be inconsistent.

- An officer violated agency policy by running a warrants check to confirm an outstanding warrant on a woman involved in a custody dispute with his friend.
- An officer made inappropriate sexual comments and occasionally touched fellow officers' backs with her front.
- An officer failed to clock out upon completion of his work shift while waiting for his carpool partner to finish work.
- A recruit was untruthful when he claimed ignorance to an academy rule prohibiting the wearing of a tongue stud.